

AMENDED IN ASSEMBLY MAY 18, 2016

AMENDED IN SENATE APRIL 20, 2016

SENATE BILL

No. 1367

Introduced by Senators Runner and Galgiani

February 19, 2016

An act to add Section 11364.6 to the Health and Safety Code, relating to harmful substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1367, as amended, Runner. Harmful substances: local regulation.

Existing law prohibits the operation of a place of business in which drug paraphernalia is kept, displayed, or sold unless the drug paraphernalia is completely kept within a separate room or enclosure to which persons under 18 years of age are excluded. Existing law prohibits the sale of synthetic cannabinoid compounds, as specified.

This bill would allow a city, county, or city and county, to regulate, by ordinance, the sale of ~~substances that pose a substance used as a recreational drug that poses~~ a threat to human life or health and a particular risk to minors if specified conditions are met, including the fact that the *substance is sold under a product name or label that is clearly identifiable, there is substantial evidence that the substance has been advertised, purchased, sold, or consumed as a recreational drug and drug, and there is substantial evidence that the substance can cause intoxication, disability, or death if swallowed, ingested* smoked, inhaled, or injected into the body. The bill would allow the city council or board of supervisors to require vendors to maintain records of sale, make inventory available for inspection by a peace officer, and store the substance in a secure place that cannot be accessed by minors. The bill would allow the city, county, or city and county, to *prohibit the sale of*

the substance to minors and require the payment of a penalty for noncompliance with the ordinance, not to exceed \$250.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11364.6 is added to the Health and Safety
- 2 Code, to read:
- 3 11364.6. (a) A city, county, or city and county, may regulate,
- 4 pursuant to subdivision (b), the sale of ~~substances that pose a~~
- 5 *substance used as a recreational drug that poses* a threat to human
- 6 life or health and a particular risk to minors if the city council or
- 7 board of supervisors ~~find~~, *finds*, after notice and a public hearing,
- 8 that each of the following conditions are true:
- 9 (1) The substance is ~~labeled~~ *packaged or labeled as a product*
- 10 *to be used* for purposes other than human ~~consumption.~~
- 11 *consumption, ingestion, inhalation, or dermal application.*
- 12 (2) *The substance is sold under a product name or label that is*
- 13 *clearly identifiable.*
- 14 ~~(2)~~
- 15 (3) The sale of the substance is not ~~already~~ regulated by the
- 16 state or federal government as toxic to ~~humans.~~ *humans and it is*
- 17 *not unlawful for any person, firm, or corporation to sell the*
- 18 *substance to a person under 18 years of age.*
- 19 ~~(3) The substance can cause intoxication, disability, or death if~~
- 20 ~~it is swallowed, smoked, inhaled, or injected into the human body.~~
- 21 (4) *There is substantial evidence that the substance can cause*
- 22 *intoxication, disability, or death if it is ingested, smoked, inhaled,*
- 23 *or injected into the human body.*
- 24 ~~(4)~~
- 25 (5) There is substantial evidence that the substance has in fact
- 26 been advertised, purchased, *sold*, or consumed as a recreational
- 27 drug.
- 28 ~~(5)~~
- 29 (6) The unregulated sale of the substance creates a continuing
- 30 and particular risk to the health and safety of children and young
- 31 adults in the community.
- 32 ~~(6)~~

1 (7) Regulating the sale of the substance would mitigate the risk
2 to minors living in the community.

3 (b) Upon finding that all of the conditions of subdivision (a)
4 have been met, the city council or board of supervisors may
5 regulate the sale of the ~~identified substances~~ *substance, identified*
6 *by a product name or label*, following the adoption of an ~~ordinance~~
7 ~~which ordinance~~. *The ordinance* may, no less than 30 days after
8 actual notice, require vendors to comply with any of the following
9 conditions:

10 (1) Maintain all records of purchase of the ~~substance~~; *substance*
11 *identified in the ordinance by a product name or label*.

12 (2) Make inventory *of the substance identified in the ordinance*
13 *by a product name or label* available for inspection upon request
14 of a peace officer.

15 (3) Store the substance in a secure place that cannot be accessed
16 by minors.

17 (4) Maintain a registry of sale to ensure that the substance is
18 not sold to any person under 18 years of age.

19 (5) Require payment of a penalty for noncompliance with the
20 ordinance enacted pursuant to this subdivision, not to exceed two
21 hundred fifty dollars (\$250) per violation.

22 (6) Prohibit the sale of the ~~identified substances~~ *substance*
23 *identified in the ordinance by a product name or label* to minors.

24 (7) Any other regulation allowable pursuant to Section 7 of
25 Article XI of the California Constitution.